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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF:

EB DOCKET NO. 05-30

TUNG SHIH TECHNOLOGY CO., LTD.

ORIGINAL

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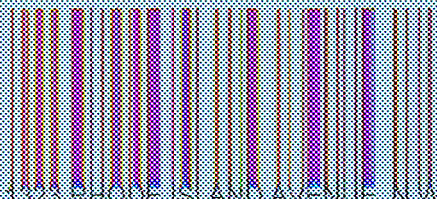
DATE OF HEARING: MARCH 17, 2005

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PAGES: 1-9

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FEDERAL COMMUNICATIONS COMMISSION
SPECTRUM ENFORCEMENT DIVISION
ENFORCEMENT BUREAU

PRE-HEARING CONFERENCE

IN THE MATTER OF:

TUNG SHIH TECHNOLOGY CO., LTD.

EB Docket No. 05-30

445 12th Street, SW
Hearing Room TW A-363
Washington, D.C.

Thursday, March 17, 2005
9:30 a.m.

BEFORE:

ARTHUR I. STEINBERG. Administrative Judge

APPEARANCES:

On Behalf of the Enforcement Bureau:

JAMES W. SHOOK, ESQ.
Trial Attorney
Federal Communications Commission
Enforcement Bureau
445 12th Street, SW
Washington, D.C. 20554
(202) 418-1420
Fax (202) 418-2080

I N D E X

E X H I B I T S

<u>Judge's</u> <u>Ex. No.</u>		<u>Marked</u>	<u>Received</u>
1	Return Receipt	5	5
 <u>Agency</u> <u>Ex. No.</u>			
1	Fax to Tung Shih	6	7

Start Time: 9:33 a.m.

End Time: 9:40 a.m.

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P-R-O-C-E-E-D-I-N-G-S

9:33 a.m.

ADMIN. JUDGE STEINBERG: This is a pre-hearing conference in EB docket No. 05-30, which was designated for hearing by Order to Show Cause, DA 05-191, released January 31, 2005.

The issues in this proceeding seek to determination whether certain equipment manufactured by Tung Shih Technology Co., Ltd., pursuant to FCC equipment certifications conform to the technical requirements of the Commission's rules and/or the technical requirements specified by its equipment authorizations and whether these equipment authorizations should be revoked.

By order FCC 05M-05, released February 3rd, 2005, the Chief Administrative Law Judge assigned this case to me and scheduled the initial pre-hearing conference for this morning.

Let me first take the appearances for the parties.

On behalf of Tung Shih Technology Co., Ltd., let the record reflect that no one is here on

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1 their behalf.

2 For the Chief Enforcement Bureau?

3 MR. SHOOK: James Shook.

4 ADMIN. JUDGE STEINBERG: Okay.

5 The Commission mailed the Order to Show
6 Cause to Tung Shih by international registered mail,
7 return receipt requested. And also sent a copy by
8 Federal Express.

9 MR. SHOOK: And also sent one by
10 facsimile.

11 ADMIN. JUDGE STEINBERG: And also sent one
12 by fax.

13 In addition, on February 4th, 2005, the
14 Office of the Administrative Law Judges also mailed
15 to Tung Shih by registered mail, return receipt
16 requested, the Order to Show Cause and the February
17 3rd order setting the date of this conference.

18 The Office of Administrative Law judges
19 has received the return receipt from this mailing.
20 And the return receipt establishes that Tung Shih
21 received the Order to Show Cause and the February 3rd
22 order on February 16th, 2005.

1 And I've prepared a copy of the return
2 receipt. And I've marked as Judge's Exhibit 1.

3 (Whereupon, the document
4 was marked for
5 identification as Judge's
6 Exhibit 1.)

7 ADMIN. JUDGE STEINBERG: And on my own
8 motion, it's a two-page document. And my own motion
9 I'll identify it and I'll receipt it. And I'll give
10 the reporter two copies of it when we've concluded.

11 (Whereupon, the document
12 previously marked for
13 identification as Judge's
14 Exhibit 1 was received in
15 evidence.)

16 ADMIN. JUDGE STEINBERG: In addition, Mr.
17 Shook gave to me before the hearing commenced a
18 seven-page exhibit identified as Enforcement Bureau
19 EB Exhibit 1.

20 (Whereupon, the document
21 was marked for
22 identification as Agency

Exhibit 1.)

ADMIN. JUDGE STEINBERG: And I'll let Mr. Shook describe it and tell us what it is.

MR. SHOOK: As Your Honor noted, it is a seven-page document. The first page consists of a Commission fax transmission cover page and it reflects that on January 31, 2005, a five-page document including this cover page was transmitted by facsimile to Tung Shih Technology Co., Ltd.

The second page of the exhibit reflects that the facsimile transmission went through to the number that was noted, which is --

ADMIN. JUDGE STEINBERG: It's a big long number.

MR. SHOOK: The Commission facsimile process, the first three numbers -- in this case, the first four numbers are going to reflect that it was along distance transmission and that it went out of the country. So, the transmission was sent 9/0/11 and then the facsimile number that we had for Tung Shih, which is 886-3-528-1372. And the document that I have reflects that the five-page transmission went

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1 through.

2 Pages 3 through 7 concern the Federal
3 Express transmission of the Order to Show Cause to
4 Tung Shih and those pages collectively reflect that
5 the Order to Show Cause was sent by Federal Express
6 to Tung Shih on January 31 and it was delivered to
7 Tung Shih on February 14, 2005, and was signed for by
8 Tung Shih -- in the documents that we have reflected,
9 it was signed by a guard. That person is not
10 identified other than in that way.

11 Your Honor, the Bureau would request that
12 Enforcement Bureau 1 be received into evidence.

13 ADMIN. JUDGE STEINBERG: The document
14 described by Mr. Shook will be received.

15 (Whereupon, the document
16 previously marked for
17 identification as Agency
18 Exhibit 1 was received in
19 evidence.)

20 ADMIN. JUDGE STEINBERG: Okay. In light
21 of these developments, I don't think there's any
22 question that Tung Shih received the Order to Show

1 Cause and also the order setting the pre-hearing
2 conference for today.

3 Section 1.91C of the Commission's rules
4 and paragraph 10 of the Order to Show Cause require
5 Tung Shih to file a written appearance stating that
6 it will appear at the hearing and present evidence on
7 this specified issues.

8 Pursuant to paragraph 10 of the Order to
9 Show Cause, the written appearance was required to be
10 filed within 30 days of the release of the Order to
11 Show Cause.

12 Since the order to Show Cause was released
13 on January 31st, 2005, the notice of appearance was
14 due to be filed on or before March 2nd, 2005.

15 I can't find any Commission record showing
16 that a Notice of appearance has been filed. I've not
17 gotten a copy of it. I checked the Commission's
18 electronic filing system and there's no record of any
19 kind of filing. I've not gotten a copy of the Notice
20 of Appearance have you, Mr. Shook?

21 MR. SHOOK: No. I have not.

22 ADMIN. JUDGE STEINBERG: Okay.

1 of the Commission's rules, as well as paragraph 10 of
2 the Order to Show Cause provide that the failure to
3 file requisite Notice of Appearance constitutes a
4 waiver of the right to a hearing.

5 Consequently, pursuant to Section 1.92C of
6 the rules and paragraph 10 of the Order to Show Cause,
7 the presiding Judge will issue an order reciting the
8 events or circumstances constituting a waiver of the
9 hearing, terminating the proceeding and certifying the
10 case to the Commission.

11 Any comments, Mr. Shook?

12 MR. SHOOK: No, sir.

13 ADMIN. JUDGE STEINBERG: Okay. With that,
14 and I'll take care of that in the next few days. And
15 with that, we'll conclude the pre-hearing conference
16 and thank you for coming.

17 MR. SHOOK: Thank you.

18 ADMIN. JUDGE STEINBERG: That's it.

19 (Whereupon, the above matter was concluded
20 at 9:40 a.m.)
21
22

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Name of Hearing

EB DOCKET NO. 05-30

Docket No. (if applicable)

445 12th STREET, S.W., WASHINGTON, D.C.

Place of Hearing

MARCH 17, 2005

Date of Hearing

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 9, inclusive, are the true, accurate and complete transcript prepared from the reporting by

Toby Walter (Reporter's Name) in attendance at the above identified hearing, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearing or conference.

March 28, 2005

Toby Walter



Date

Legible Name and Signature of Reporter

Name of Company: Neal Gross Co.

March 28, 2005

Judy Hadley



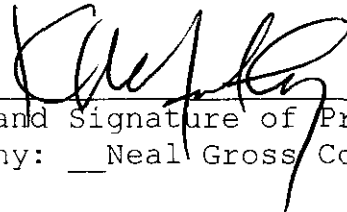
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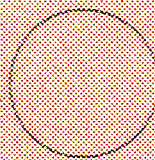
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FROM: Thomas Fitz-Gibbon, Esq.

DATE: January 31, 2005

PAGES: 5 (including cover page)

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